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Paper No. 8

Cesari & McKenna
30 Rowes Wharf
Boston MA 02210

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Valerio Aisa
Application No. 10/049,985
Filed: February 20, 2002
For: **DEVICE, SYSTEM AND METHOD FOR
MONITORING A HOUSEHOLD ELECTRIC
APPLIANCE**

DECISION ON PETITION
TO WITHDRAW HOLDING OF
ABANDONMENT

This is a decision on the Petition to Withdraw Holding of Abandonment pursuant to 37 C.F.R. §1.181, filed July 11, 2005. No fee is required.

This application is held abandoned for failure to timely file a response to the non-final Office action originally mailed on March 4, 2004 and remailed on April 19, 2004. A Notice of Abandonment was mailed November 10, 2004.

Petitioner asserts that the non-final Office action was not received due to an incorrect address. Petitioner states that a transmittal letter with a change of correspondence address was submitted on with the filing of the national stage request on February 20, 2002.

The petition fails to comply with MPEP §711.03(c) for a successful petition to withdraw the holding of abandonment. Petitioner failed to supply a copy of their docket record with explanation of said record and also failed to attest of a personal search of their file jacket and docket records for the Office action.

However, a review of the application file reveals (1) evidence that the original mailing of the non-final Office action was returned to the Office as undeliverable, (2) evidence that the Notice of Abandonment was also returned to the Office as undeliverable, (3) a Transmittal letter establishing a Correspondence address which is different than the address in which the non-final Office action and Notice of Abandonment was addressed, and (4) a copy of a preliminary amendment which had not been entered or considered by the examiner prior to the mailing of the original non-final Office action.

Given the file record reveals a transmittal letter requesting an address different than the one in which the non-final Office action of March 4, 2004 and April 19, 2004 was mailed, then there is sufficient evidence that the non-final Office action and Notice of Abandonment were mailed to an incorrect address and hence, there was an obvious irregularity in the mailing of the Office communication.

Thus, the application was not abandoned in fact. Accordingly, the holding of abandonment is withdrawn.

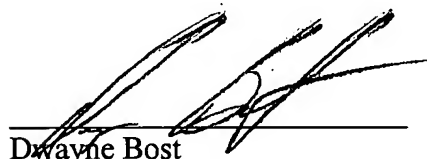
The petition is **GRANTED**.

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Given that there is further evidence in the application of a preliminary amendment which was not entered or considered by the examiner, the non-final Office action mailed March 4, 2004 and re-mailed on April 19, 2004, is hereby vacated.

The application file will be forwarded to the Technology Center's technical support staff for entry of the change in correspondence address as well as applicant's preliminary amendment. From there the application will be forwarded to the examiner for action in appropriate turn.

A handwritten signature in black ink, appearing to read 'Dwayne Bost', is written over a horizontal line.

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications